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SECRETARY OF STATE

**STATE OF TENNESSEE
DEPARTMENT OF FINANCIAL INSTITUTIONS
OFFICE OF THE COMMISSIONER**

**DEPT. OF FINANCIAL INSTITUTIONS,
COMPLIANCE DIVISION,**

Petitioner,

v.

ADVANTAGE FUNDING, LLC,

Respondent.

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Docket No.: 03.06-100709J

TDFI No.: 08-40-C

AGREED ORDER OF DISMISSAL

This matter is before Marion P. Wall, Administrative Judge, assigned by the Tennessee Secretary of State, Administrative Procedures Division, and sitting for the Commissioner of the Tennessee Department of Financial Institutions (hereinafter, "Commissioner"). It appearing that the parties have agreed to resolve this case by the entry of this Agreed Order, and that in support thereof the parties make the following representations, as evidenced by the signatures of their authorized representatives below:

1. This matter constitutes a "contested case" within the meaning of Tenn. Code Ann. § 4-5-102(3). Both the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101, *et seq.*, and the Uniform Rules of Procedure for Hearing Contested Cases Before State Administrative Agencies, Chapter 1360-4-1 of the Official Compilation Rules & Regulations of the State of Tennessee, are applicable to this matter.

2. This case was properly transferred to the Administrative Procedures Division for adjudication pursuant to Motion of the Tennessee Department of Financial Institutions Compliance Division (hereinafter "Division"), filed on October 9, 2008.

3. Tenn. Code Ann. § 45-1-104 provides that the Commissioner, through the Department of Financial Institutions (hereinafter, “Department”), is charged with the execution of all laws relative to persons doing or engaged in a banking or other business as provided in Title 45. Under that authority, the Commissioner is responsible for the administration, enforcement, and interpretation of the Tennessee Residential Lending, Brokerage and Servicing Act of 1988, as amended, Tenn. Code Ann. §§ 45-13-101, *et seq.* (hereinafter, “Mortgage Act”).

4. The Division is the lawfully designated representative through which the Commissioner regulates mortgage lenders, mortgage loan brokers, mortgage loan servicers and mortgage loan originators under the Mortgage Act.

5. Advantage Funding, LLC (hereinafter, “Advantage”) is a for-profit Tennessee Limited Liability Company, which had its principal office located at 116 Wilson Pike Circle, Suite 103, Brentwood, Tennessee 37027, and which at all times relevant hereto was licensed by the Department to do business in this state as a mortgage broker under license number 2539. Advantage represents that it stopped doing business on or about August 19, 2008, at which time it submitted its license number 2539 to the Department for purposes of surrendering the license. All references to “Advantage” made herein shall include its owner and Chief Manager.

6. Between November 26, 2007 and December 5, 2007, the Division had four (4) of its compliance examiners (hereinafter, “Examiners”), conduct a compliance examination (hereinafter, “Examination”) of Advantage’s mortgage brokering business under authority of the Mortgage Act.

7. Upon conclusion of the Examination on December 5, 2007, the Examiners completed a Report of Examination (hereinafter, "Report"), in which they cited Advantage for alleged violations of the Mortgage Act and applicable law.

8. Based on evidence gathered at the Examination and cited in the Report, the Division initiated this administrative action by Notice of Charges served on Advantage on or about April 15, 2008.

9. On April 15, 2009, the Division filed an Amended Notice of Charges to replace its earlier Notice of Charges. The Amended Notice of Charges alleges that Advantage originated thirty-four (34) residential mortgage loans using unregistered mortgage loan originators in violation of Tenn. Code Ann. § 45-13-126(a), and that on Loan # 1000435323, Advantage improperly collected fees of three thousand five hundred and ninety-two dollars and sixty-eight cents (\$3,592.68), in violation of Federal Housing Administration (hereinafter, "FHA") policy, 24 C.F.R. § 3500.8, and Tenn. Comp. R. and Regs. 0180-17-.02.

10. The Amended Notice of Charges requests relief in the form of an order directing Advantage to pay a civil monetary penalty of up to three hundred forty thousand dollars (\$340,000) and to refund the fees of three thousand five hundred and ninety-two dollars and sixty-eight cents (\$3,592.68). The Division recognizes that Advantage denies all allegations made by the Division in this matter, as well as any liability for such allegations, on various legal, factual and constitutional grounds.

11. In the interests of cooperation, and to avoid further costs associated with administrative and judicial proceedings with respect to this matter, the Division and Advantage agree to settle this matter by Agreed Order.

12. In consideration of the promises made by Advantage below, the Division hereby agrees to cease and deem concluded its administrative action against Advantage and for this matter to be dismissed by Judge Wall. The Division also agrees that it will not initiate proceedings of any kind against the principal and Chief Manager of Advantage for any matters referenced herein, provided that Advantage fully complies with its obligations below. The Division recognizes that Advantage denies that any wrongdoing occurred during its period of operation, especially in regards to any and all matters referenced herein. Further, the Division acknowledges that, as of the date below, it is not aware of any facts or claims that could give rise to a claim on any surety bond posted by Advantage under the Mortgage Act, or of any facts or claims (other than possibly the matters being dismissed by this Agreed Order) that could be made against its principal and Chief Manager.

13. In return for dismissal of this matter and to avoid further costs and expenses, and without admitting or denying any wrongdoing, Advantage hereby agrees to:

- a. Pay to the borrower(s) of Loan # 1000435323, the sum of three thousand five hundred and ninety-two dollars and sixty-eight cents (\$3,592.68); and,
- b. Pay to the Department a settlement of seventeen thousand dollars (\$17,000.00), payable in installments as outlined below.

14. The Division and Advantage hereby agree that Advantage shall pay the settlement of seventeen thousand dollars (\$17,000.00) as follows:

- a. One thousand dollars (\$1,000.00) due upon entry of this Agreed Order by Judge Wall; and,
- b. The remainder to be paid in monthly installments of at least one thousand five hundred dollars (\$1,500.00) (unless the remaining balance is less than such amount, in which event the final installment shall be made in the remaining amount), due on the first of each month beginning with June 1, 2009, until the settlement is paid in full.

15. Regarding the monthly minimum installments referenced above, the Division and Advantage hereby agree that:

- a. Nothing contained herein shall prevent Advantage from paying off the outstanding balance of the settlement at any time;
- b. The Division shall not be entitled to interest on any outstanding balance of the settlement; and,
- c. Monthly installments shall be considered timely made so long as they are sent to the following address and so long as they are received on or before the tenth (10th) day of the month in which they are due:

**Tennessee Department of Financial Institutions
Attn: Fiscal Section/Data Entry Unit
414 Union St., Suite 1000
Nashville, Tennessee 37210**

16. It is understood and agreed by Advantage that any breach of this Agreed Order by Advantage shall constitute sufficient grounds under the Mortgage Act to deny any application for a license or registration that may be pending with the Department by

Advantage, and shall also constitute sufficient grounds under the Mortgage Act and the Uniform Administrative Procedures Act to summarily suspend any license or registration which may be then held by Advantage. Nothing in this Agreed Order, however, shall impose any personal liability on the owner or Chief Manager of Advantage.

17. It is understood and agreed by the Division and Advantage that this Agreed Order constitutes a final settlement of any and all matters raised in the Report, the Notice of Charges, and the Amended Notice of Charges pertaining to possible violations of the Mortgage Act and relative law, but in no way precludes additional proceedings by or on behalf of the Department for any breach of this Agreed Order, or for any acts and/or omissions not specifically addressed herein.

18. It is understood and agreed to by Advantage that, by entering into this Agreed Order, Advantage expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or to challenge or contest the validity of this Agreed Order unless this Agreed Order is set aside upon request of the Department. Should this Agreed Order be set aside, Advantage shall have available to it any and all defenses that now exist.

19. It is understood and agreed to by Advantage that, by entering into this Agreed Order, Advantage is permitting the Administrative Procedures Division and/or Judge Wall to enter this Agreed Order without further process. In the event that this Agreed Order is not entered for any reason, it will be of no force or effect for either party and will not be admissible in any other proceedings of any kind or nature between the Department, Advantage, its principal, or Chief Manager.

20. It is further understood and agreed that, pursuant to Tenn. Code Ann. § 45-1-120, the Division will keep confidential all information pertaining to this matter (including but not limited to discussions, documents and other materials), except for those documents (including this Agreed Order) that have been filed with the Administrative Procedures Division that are available for public inspection; provided, however, that nothing contained herein shall prevent the Division from sharing any information pertaining to this matter with any law enforcement agency for purposes of a law enforcement investigation. Should Advantage breach this Agreed Order, the Division may use any information pertaining to this matter for any purpose as is reasonably necessary to enforce compliance with this Agreed Order or to initiate a new administrative action.

21. Neither party shall make any public announcement or press release concerning these proceedings; provided, however, that both parties acknowledge that this Order is a matter of public record and that the Division may post this Agreed Order on its website in accordance with Department policy for posting of such orders. In addition, nothing contained herein shall prevent the Department from using or discussing or commenting on any of the documents that are available for public inspection in this matter (including this Agreed Order), for any regulatory purpose (including for purposes of responding to a request for information).

22. Based upon the foregoing agreement and representations, and for good cause shown to me, **IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:**

a. That, within thirty (30) days, unless already paid, Advantage shall pay to the borrower(s) of Loan # 1000435323 the sum of three thousand five hundred and ninety-two dollars and sixty-eight cents (\$3,592.68), which payment shall be routed through the Department with the Department having the responsibility to deliver the funds in a timely fashion or to ensure compliance with the Uniform Disposition of Unclaimed Property Act in the event that such delivery cannot be made under such Act;

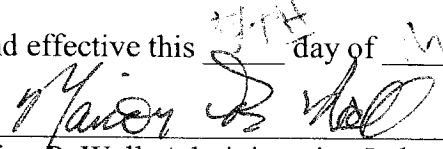
b. That, immediately, unless already paid, Advantage shall pay to the Department the sum of one thousand dollars (\$1,000.00), to be applied towards the settlement of seventeen thousand dollars (\$17,000.00) agreed to above;

c. That Advantage shall pay to the Department the remainder of the settlement, in the amount of sixteen thousand dollars (\$16,000.00), in minimum monthly installments pursuant to the terms agreed to above;

d. That the Division and Advantage shall strictly comply with all of the terms and conditions agreed to herein; and,


e. That Advantage's full performance under this Agreed Order shall represent the complete and final resolution of, and discharge with respect to, any and all causes of action the Division may have against Advantage in regards to any and all matters referenced in the Division's Report, Notice of Charges and Amended Notice of Charges, and that no charges, fines, costs, or any other type of assessment shall be levied or sought by either party against the other (including their respective representatives, principals, or Chief Manager, as applicable) unless specifically provided for herein.

This Agreed Order **ENTERED** and effective this 27th day of May, 2009.



Marion P. Wall, Administrative Judge

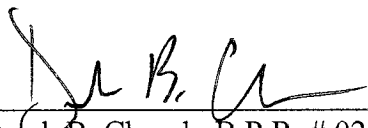
Filed in the Administrative Procedures Division, Office of the Secretary of State,
this 7th day of May, 2009.


Thomas Stovall, Director
Administrative Procedures Division

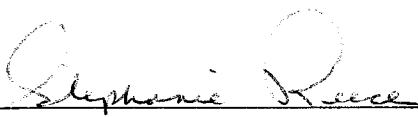
AGREED ORDER APPROVED FOR ENTRY:


Michael Igney, Assistant Commissioner
Tennessee Department of Financial Institutions
414 Union Street, Tenth Floor
Nashville, Tennessee 37219
Tele: (615) 741-3186
Fax: (615) 532-1018

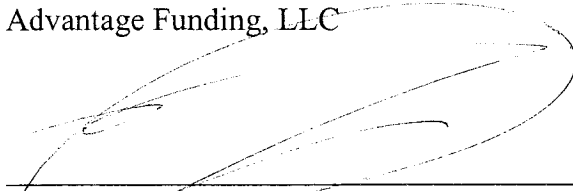
5-1-09
Date


Derek B. Church, B.P.R. # 024946
Staff Attorney and Drafter of this Order
Tennessee Department of Financial Institutions
414 Union Street, Tenth Floor
Nashville, Tennessee 37219
Tele: (615) 741-5961
Fax: (615) 253-1875

05/01/09
Date


Stephanie Reece
Chief Manager
Advantage Funding, LLC

4-27-09
Date


George R. Fusner, Jr., B.P.R. # 5614
Counsel for Advantage Funding, LLC
116 Wilson Pike Circle, Ste. 210
Brentwood, TN 37027

4-27-09
Date